Ganad Corp Bhd v Flobright Trading Sdn Bhd & Anor

HIGH COURT (KUALA LUMPUR) — SUIT NO S2-22-487 OF 1995
KAMALANATHAN RATNAM J
17 AUGUST 2000

Evidence *— Documentary evidence — Secondary evidence — Alleged photocopy of original — Whether admissible as secondary evidence — No further explanation as to how originals were lost or misplaced — Evidence Act 1950 s 65(1)(c)*

The plaintiff carried on the business of letting out advertising space on its outdoor billboards. The first defendant carried on the business of manufacturing and erecting outdoor billboards while the second defendant was a consultant engineer. It was the plaintiff's case that the first defendant was a turnkey contractor and had agreed to design and build the unipole so that the plaintiff could display its client's advertisement. The unipole structure collapsed on 16 May 1995 and hence the plaintiff claimed against the first and second defendants. During the course of the trial, PW12 produced a photocopy of the footing details of the collapsed unipole ('P3') and the court had to consider the admissibility of the drawing. The drawing allegedly had the rubber stamp and the signature of the second defendant. As against the first defendant, PW12 testified that he had been dealing with one named Hong, who was a director of the first defendant. Evidence was tendered that the plaintiff had made payment of RM109,000 to the first defendant being the full contract price for the designing and construction of the unipole. The first defendant's other director, DW2, refused to testify on behalf of the first defendant.

Held, allowing the plaintiff's claim against the first defendant:

(1) In order for s 65(1)(c) of the Evidence Act to apply, the plaintiff must show to the satisfaction of the court that its inability to produce the original did not arise 'from his own fault or neglect'. The mere fact that the plaintiff's witnesses were merely content with saying that they have either lost the originals or had misplaced them, and had given no further explanation means that they have not satisfied the court that the non-production of the original was not due to their default or neglect. P3 therefore cannot be admissible even as secondary evidence (see p 836C–D). Unless the original drawings are produced, there is nothing to link the collapsed unipole to the second defendant as the engineer who designed the collapsed unipole (see p 838A–B) .

(2) Since no evidence in rebuttal has been led by the first defendant, the court accepted the plaintiff's evidence that it was the first defendant who was responsible for the designing and construction of the unipole that collapsed (see pp 839I–839B). The first defendant had breached its contractual obligations with the

plaintiff by failing to design and build the unipole fit for the purpose of displaying the plaintiff's clients' advertisements. Further, the first defendant was also liable in failing to build the unipole with good quality materials (see p 839C–D).

[**Bahasa Malaysia summary**

Plaintiff menjalankan perniagaan menyewakan ruang iklan di papan iklan terbukanya. Defendan pertama menjalankan perniagaan mengeluarkan dan mendirikan papan iklan sementara defendan kedua adalah pakar runding jurutera. Kes plaintif ialah bahawa defendan pertama adalah kontraktor utama dan telah bersetuju untuk mereka dan membina papan iklan agar plaintif boleh mempamerkan iklan pelanggannya. Struktur tiang papan iklan tersebut telah runtuh pada 16 Mei 1995 dan plaintif menuntut terhadap defendan pertama dan kedua. Semasa perjalanan perbicaraan tersebut, PW12 telah mengemukakan suatu salinan butir-butir lukisan tiang papan iklan yang runtuh tersebut ('P3') dan mahkamah terpaksa mempertimbangkan kebolehterimaan lukisan tersebut. Lukisan tersebut dikatakan mempunyai cap getah dan tandatangan defendan kedua. Terhadap defendan pertama pula, PW12 memberikan keterangan bahawa beliau telah berurusan dengan seorang yang bernama Hong, pengarah defendan pertama. Keterangan telah dikemukakan bahawa plaintif telah membuat pembayaran sebanyak RM109,000 kepada defendan pertama sebagai harga kontrak penuh untuk mereka dan membina tiang papan iklan tersebut. Pengarah defendan pertama yang lain, DW2, telah enggan memberikan keterangan bagi pihak defendan pertama.

Diputuskan, membenarkan tuntutan plaintif terhadap defendan pertama:

(1) Bagi s 65(1)(c) Akta Keterangan untuk terpakai, plaintif mestilah menunjukkan sehingga mahkamah berpuas hati bahawa kegagalan untuk mengemukakan yang asal tidak timbul dari 'kesilapan atau kecuaiannya sendiri'. Fakta semata-mata bahawa saksi-saksi plaintif hanya berpuas hati dengan mengatakan bahawa mereka telah hilang yang asal atau tersalah letaknya, dan tidak memberikan penjelasan yang selanjutnya bermaksud bahawa mereka belum memuaskan mahkamah bahawa ketiadaan pengemukaan yang asal bukanlah berpunca daripada kesilapan atau kecuaian mereka. Maka P3 tidak boleh diterima sebagai keterangan sekunder (lihat ms 836C–D). Kecuali lukisan asal dikemukakan, tiada apa-apa untuk mengaitkan runtuhan tiang papan iklan kepada defendan kedua sebagai jurutera yang mereka tiang papan iklan yang runtuh tersebut (lihat ms 838A–B).

(2) Oleh kerana tiada keterangan sebaliknya telah ditunjukkan oleh defendan pertama, mahkamah menerima keterangan plaintif

bahawa defendan pertama bertanggungjawab untuk mereka dan membina tiang papan iklan yang runtuh tersebut (lihat ms 838I–839B). Defendan pertama telah melanggar kewajipan kontraknya dengan plaintif kerana gagal untuk mereka dan membina tiang papan iklan yang sesuai bagi tujuan mempamerkan iklan pelanggan plaintif. Selanjutnya, defendan pertama juga adalah bertanggungan kerana gagal untuk membina tiang papan iklan tersebut dengan bahan-bahan yang berkualiti (lihat ms 839C-D).]

Notes

For cases on secondary evidence generally, see 7 *Mallal's Digest* (4th Ed, 979–990.

Cases referred to

Wong Choon Mei & Anor v Dr Kuldeep Singh & Anor [1985] 2 MLJ 373 (refd)

Legislation referred to

Evidence Act 1950 ss 63, 65(1)(c), 114(g)

CT Annathurai (*Hamzah Sulaiman & Partners*) for the plaintiff.

Tan Weng Soon (*Lee See Loon* with him) (*Tan Eng Choong & Co*) for the defendants.

Kamalanathan Ratnam J:

Facts

The plaintiff carries on the business of letting out advertising space on its outdoor billboards. The first defendant carries on the business, inter alia, of manufacturing and erecting outdoor billboards. The second defendant is a consultant engineer. The subject matter of this suit is a unipole structure which is in essence a concrete foundation onto which is welded and bolted and strengthened by gusset plates, the base plate with a hollow steel cylindrical vertical column having a diameter of 970mm (3ft 2in) thickness of 8mm (0.31in) and a height of 24.4m (80ft) carrying an equilateral truss on the top to which are attached two advertising panels, each measuring 6.1m (20.02ft x 18.3m (60.06ft) ('the unipole'). the unipole was located at the Jalan Kuching and Jalan Segambut junction about 1km from the Segambut Toll in Kuala Lumpur as one travels towards Ipoh. the unipole buckled and collapsed at about 5pm on Tuesday, 16 May 1995.

In its letter dated 22 April 1992 and addressed to the plaintiff, the first defendant presented a quotation for the erection of the unipole itemized as follows:

	DESCRIPTION	AMOUNT (RM)
1	Foundation: 6m x 6m x 2m	18,000
2	Structure drawings approval by professional engineer	4,000
3	Unipole: 970mm x 8mm x 80ft	28,000
4	Steel truss: visual frame 20ft x 60ft	28,000
5	Walkway and three sided ladder	15,000
6	Transportation	6,000
7	Heavy equipment	10,000
		109,000

together with terms and conditions which, inter alia, stated that the quotation included all materials, installation, labour, cost, heavy equipment, accommodation and transportation ('the said quotation').

The plaintiff agreed to the said quotation and paid the full contract sum by the following dates:

DATE	AMOUNT (RM)
21 May 1992	10,000
25 May 1992	49,000
15 June 1992	30,000
27 June 1992	10,000
4 July 1992	10,000
	109,000

One Hong Kwi Seong, a Korean national and a director of the first defendant ('Hong') signed the receipts.

Plaintiff's case

It is the case of the plaintiff that the first defendant appointed the second defendant who was at all material times a servant and/or agent of the first defendant to prepare the engineering drawings for the unipole since payment of RM4,000 has been acknowledged to have been made to a professional engineer. The plaintiff pleaded that an implied contract had arisen through the first defendant's offer by way of the quotation and the plaintiff's acceptance of the same. It was the plaintiff's case that the first defendant was a turnkey contractor and had agreed to design and build the unipole so that the plaintiff could display its client's advertisement. The plaintiff claims against both the defendants as follows:

	PARTICULARS	(RM)
(a)	Cost of dismantling and removing the unipole after its collapse	62,250.00
(b)	Book value of the unipole as at 31 May 1995	154,000.00
(c)	Cost of the vinyl (double sided)	45,676.66
(d)	Loss of revenue from the rental from 16 May 1995 to 14 August 1997	393,000.00
(e)	Cost of Hong's reports	1,500.00
(f)	Cost of Qua's reports	10,500.00
		666,926.66

Cause of action

The plaintiff's case is based both on breach of contract and on negligence.

Findings of the court

PW12 ('Gan'), the chairman of the plaintiff, was personally involved in the negotiations with Hong, the Korean, who was at all material times a director of the first defendant, for the erection of the unipole. The plaintiff contended that the second defendant prepared the structural drawings for the unipole which the first defendant forwarded to the plaintiff and which drawings the plaintiff submitted to Dewan Bandaraya Kuala Lumpur ('DBKL') to enable the latter to issue a licence for the outdoor billboard. PW2, the Pengarah from the Jabatan Perlesenan DBKL, testified to the effect that it was a requirement of the DBKL that all structural plans be signed and endorsed by a qualified registered engineer before a licence could be issued. She also confirmed that the DBKL had been issuing licences for the unipole, situated at the site of the collapsed unipole, for several years. However, PW2 was unable to produce the structural plans submitted by the plaintiff in respect of the collapsed unipole because the DBKL was unable to locate the said drawings as they were either lost or by mistake placed into another file. PW3, the administration officer from the DBKL, who had custody of the file relating to the collapsed unipole, confirmed that the said plans were not in the file. Whilst the DBKL was unable to produce the said structural plans, PW7, the managing director of the plaintiff, testified that even the plaintiff was unable to produce a copy of the structural plans relating to the collapsed unipole because the plaintiff had also misplaced the drawings and had been unable to locate the same to date. However, during the course of the trial PW12 suddenly produced what he said was a photostat copy of the footing details of the collapsed

unipole. He said he discovered this during the trial, amongst other drawings. This drawing which purportedly had the rubber stamp and the signature of the second defendant was admitted by me as P3 merely as the plaintiff's exhibit. I had made no ruling at that stage that it was drawn by the second defendant. I had noted however the second defendant's vehement denial that he had drawn P3.

Exhibit P3

I shall now rule on this exhibit. It is clear that P3 is merely a photocopy of footing details of a unipole which the plaintiff has alleged is the drawings of the collapsed unipole in question and which the plaintiff contends was prepared and signed by the second defendant. The second defendant has also denied being the maker of P3. I cannot accept the plaintiff's contention that P3 was a photocopy of the footing details of the collapsed unipole. In spite of this court's invitation to the plaintiff to reply to the defendant's submission on points of law, the plaintiff declined. Therefore it is necessary to point out that in its submission the plaintiff had not addressed this court on the admissibility of P3 as a piece of evidence. I had clearly indicated to parties that I would only rule on the admissibility of P3 at the end of the case and I had merely marked the exhibit as P3, being the plaintiff's exhibit. The second defendant has submitted on P3's inadmissibility.

I find that although it is the plaintiff's case that both the plaintiff and DBKL had lost the original drawings, no witness for the plaintiff testified that P3 was indeed a photostat copy of the original. Even assuming the original had indeed been submitted to the DBKL it is impossible to accept P3 as a copy of the original drawings since it does not even state the location where the unipole was to have been sited. Surely DBKL would not issue a licence without the applicant stating where the unipole was to be sited. On this ground alone I reject P3 as being a copy of the original structural plans submitted to DBKL. Whilst it is also trite law that the best evidence, being primary evidence of a document, ought to be produced, however, s 63 of the Evidence Act 1950 ('the Act') allows for the inclusion of secondary evidence:

> Secondary evidence
>
> Secondary evidence includes —
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> (a) certified copies given under the provisions hereinafter contained;
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> (b) copies made from the original by mechanical processes, which in themselves ensure the accuracy of the copy, and copies compared with such copies;
>
> (c) copies made from or compared with the original;
>
> (d) counterparts of documents as against the parties who did not execute them;
>
> (e) oral accounts of the contents of a document given by some person who has himself seen [or heard it or perceived it by whatever means].

But s 65 of the Act specifies the cases in which secondary evidence relating to the admissibility of a document may be given. It would seem that

s 65(1)(c) of the Act is the nearest sub-section under which the plaintiff could attempt to introduce P3 as secondary evidence. It reads as follows:

> Cases in which secondary evidence relating to documents may be given
>
> (1) Secondary evidence may be given of the existence, condition or contents of a document admissible in evidence in the following cases: ...
>
> (c) when the original has been destroyed or lost, or when the party offering evidence of its contents cannot for any other reason not arising from his own default or neglect produce it in reasonable time; ... .

There is a proviso that the plaintiff must overcome. It must show to the satisfaction of the court that its inability to produce the original did not arise 'from his own fault or neglect'. The mere fact that the plaintiff's witnesses were merely content with saying that they have either lost the originals or had misplaced them, and had given no further explanation means that they have not satisfied the court that the non-production of the original was not due to their default or neglect. P3 therefore cannot be admissible even as secondary evidence.

As to the plaintiff's contention that P3 bore the second defendant's rubber stamp and signature, the defendant has denied the same. The onus being on the plaintiff to prove its allegation, no further evidence was led by the plaintiff on this.

Did the second defendant actually draw the design?

The contention of the plaintiff that it was the second defendant who drew the structural drawings is premised on three grounds.

THAT PW12 HAD TESTIFIED THAT HE SAW THE SIGNATURE AND STAMP OF THE SECOND DEFENDANT ON THE ORIGINAL DRAWINGS SUBMITTED TO DBKL

Considering the evidence of PW12, I find that he had admitted that the negotiations for the contract were between him and Hong, the Korean, and that it was the duty of the first defendant to appoint an engineer to prepare the drawings. He also testified that it was Hong who submitted the drawings to him. Whilst PW12 maintained that he had seen the rubber stamp and the signature of the second defendant on the original drawings, I am unable to accept this as a fact because no evidence was led that PW12 was indeed familiar with the signature of the second defendant, let alone to be able to recognize a rubber stamp. In fact no evidence was led that PW12 had even met the second defendant. This becomes clearer when I consider the plaintiff's plea that this is a turnkey project. *Building Contract Litigation* (2nd Ed) defines turnkey contract as follows:

> Turnkey contract. An expression sometimes used to describe a design and build contract where the contractor not only designs and builds the building but also designs and installs any plant necessary. The idea is that all the employer has to do is to turn the key to the front door and start using the building. The term, however, is not a term of art;

Therefore since the plaintiff contends that this is a turnkey contract all dealings must be between the plaintiff and the first defendant and there ought to be no dealings between the plaintiff and the engineer who prepared the drawings. In any case since it is in evidence that PW12 dealt with only Hong, the Korean, and since he was not subpoenaed, all reference to conversations between PW12 and Hong, the Korean in respect of the plaintiff's case against the second defendant, must be treated as hearsay.

It cannot be argued by the plaintiff that since Hong is also a director of the first defendant he ought to have been present in court and that therefore there was no need for the plaintiff to have subpoenaed him. This is the correct view in respect of the plaintiff's case against the first defendant. But in so far as the case rests against the second defendant, it was necessary for the plaintiff to have called Hong. In any case to a question from the court, DW2, the first defendant's manager, confirmed that Hong is still the director of the first defendant and that if he was called to testify he could be contacted.

PW12'S RELIANCE ON P3

I have already dealt with exh P3. However I need only to add that whilst the second defendant had elected to testify on his behalf, he was never cross-examined with regard to P3.

ADVERSE INFERENCE TO BE RAISED AGAINST THE SECOND DEFENDANT BECAUSE OF HIS FAILURE TO PRODUCE THE PROJECT REGISTRATION BOOK

The second defendant called as his witness DW4, a civil and structural engineer, a former employee of the second defendant. During cross-examination by the plaintiff it was suggested to DW4 that there was a possibility that the original drawings could have been done by the second defendant but that the said drawings might have been misplaced. DW4 responded by saying that their firm would record down the whole works done for the year and the month, into a book called the project registration book. Arising from the failure and/or omission on the part of the second defendant to produce this project registration book, the plaintiff sought the invocation of s 114(g) of the Act to raise an adverse inference against the second defendant.

I have checked the court file and there is no notice to produce filed by the plaintiff. In any case notwithstanding the numerous case managements I have had with counsel in respect of this case, this issue was never raised by the plaintiff. However, even if the plaintiff had heard of the existence of this book for the first time from DW4, the plaintiff could have demanded the production of the book. Since the second defendant had already earlier testified, he could have been recalled to produce the book. But in my view there is no need even to produce the book. DW4 had denied that the second defendant had prepared the said drawings because if he had done so it would have been recorded in the book. The plaintiff accepted this evidence without challenge and it is too late in the day to raise adverse inference under s 114(g) of the Act.

The original drawings for the collapsed unipole have not been found to date. This is indeed surprising. The plaintiff does not have the original or a copy of the original drawings. Neither does DBKL; nor even the first defendant who is the contractor. The mystery of the missing original drawings has not been solved. It is therefore my finding that unless the original drawings are produced, there is nothing to link the collapsed unipole to the second defendant as the engineer who designed the collapsed unipole.

After the close of the plaintiff's case the first defendant's representative, Ms Lai Chiew Foon, who had been attending court declined to give evidence on behalf of the first defendant. To my questions she maintained that she did not wish to call any witnesses nor wished to tender any form of evidence on behalf of the first defendant and confirmed that she understood the consequences of not adducing evidence on behalf of the first defendant. With that I began hearing the case of the second defendant. However, the said Ms Lai appeared as DW2 and testified on behalf of the second defendant. She confirmed that it was Hong, the Korean, who appointed the engineer to prepare the drawings for the unipole in question. Whilst the second defendant had pleaded and also admitted in evidence that he had done structural drawings previously for the first defendant for unipoles, he specifically denied having done the drawings for this collapsed unipole. It is therefore my finding that at the close of the plaintiff's case the plaintiff has failed to discharge the burden of proof that the second defendant was the engineer who designed the collapsed unipole. There is no need therefore for me to consider whether the plaintiff has a cause of action either in contract or in tort against the second defendant.

It is interesting to note that in its pleadings the plaintiff has alleged that the second defendant is the servant or agent of the first defendant. Yet the plaintiff adduced no evidence on this score. Neither did the second defendant adduce any evidence that he was neither the servant nor the agent of the first defendant but that he would have been an independent contractor if he had in fact done the structural drawings. In any case the plaintiff had pleaded in para 3 of the statement of claim that the second defendant is carrying on practice as a consultant engineer under the name and style of WY Consult at 18–2A Jalan 9/125D, Desa Petaling, 57100 Kuala Lumpur. I take it that with such a plea it is manifestly clear that the second defendant could not have been the servant or the agent of the first defendant. Unfortunately the second defendant has made no mention of para 3 in his defence. He has made no admission to para 3 but there is the general averment of denial. This case illustrates how important it is for pleaders to properly state their case to avoid confusion.

As against the first defendant

As against the first defendant PW12 testified that he had been dealing with Hong, the Korean, who was and is still a director of the first defendant. Clear evidence has been tendered that the plaintiff had made payment of RM109,000 to the first defendant being the full contract price for the

designing and construction of the unipole in question. The first defendant's other director, DW2, who testified on behalf of the second defendant expressly refused to testify on behalf of the first defendant notwithstanding the fact that she had all along been attending court as the first defendant's representative. Since no evidence in rebuttal has been led by the first defendant I accept the plaintiff's evidence that it was the first defendant who was responsible for the designing and construction of the unipole that collapsed. As to the liability of the first defendant, I accept the evidence of Professor Qua Hock Chye, the expert witness for the plaintiff, who concluded that the collapse of the unipole structure was caused by buckling of the column as a result of strong winds because the column had been grossly under-designed and could only safely withstand wind speeds of up to 19.2ms, whereas the maximum expected wind speed in Kuala Lumpur was as high as 35.5ms. I also accept his conclusion that the unipole structure was generally of low quality manufacture. It is obvious therefore that the first defendant had breached its contractual obligations with the plaintiff by failing to design and build the unipole fit for the purpose of displaying the plaintiff's clients' advertisements. Further, the first defendant is also liable in failing to build the unipole with good quality materials. I also accept the evidence of PW12, who testified that the negotiations with the first defendant were carried out through Hong, the Korean, who had assured the plaintiff that a qualified engineer would be appointed by the first defendant to design and construct the unipole. There were no reasons given why Hong did not attend court. In fact evidence was led that he could have attended. I have therefore no hesitation in finding for the plaintiff against the first defendant.

Damages

Even though the claim has been dismissed against the second defendant, decided authorities suggest that it is the duty of the trial court to assess damages (see *Wong Choon Mei & Anor v Dr Kuldeep Singh & Anor* [1985] 2 MLJ 373 (SC)). In any case it is necessary to assess damages since liability has been found as against the first defendant.

The plaintiff claims the sum of RM667,926.66 made up as follows:

		AMOUNT (RM)
(a)	Cost of dismantling and removing the unipole after its collapse	62,250.00
(b)	Book value of the unipole as at 31 May 1995	154,000.00
(c)	Cost of the vinyl (double sided)	45,676.66
(d)	Loss of revenue from the rental from 16 May 1995 to 14 August 1997	393,000.00

(e)	Cost of Hong's reports	1,500.00
(f)	Cost of Qua's reports	10,500.00
		666,926.66

Claim for dismantling

To prove this claim for dismantling and removing the unipole after its collapse, amounting to RM62,250, the plaintiff called as its 14 witness its corporate investment manager who described her function as overlooking 'the financial, accounting and corporate matters of the plaintiff'. Various invoices totalling RM57,100 were in the agreed and admitted bundle of documents marked 1 CABD. However, counsel for the second defendant during cross-examination demanded proof of payment for the sums. The witness confirmed she had the proof and that the documents were in the office. It is my judgment that all these questions ought to have been raised by the second defendant during the case management stages. In the circumstances, I hold that the plaintiff had indeed settled the sum. In respect of the claim for RM4,000 being miscellaneous payments for which no receipts were available, I am unable to make any award. The claim amounting to RM1,150 as phone call charges is unreasonable. I would award a sum of RM250. The total award under this head is therefore RM57,350.

Book value of the unipole

There is a claim amounting to RM154,000 being the book value of the unipole as at 31 May 1995. The plaintiff has exhibited in 1 CABD a document, which is an extract from the plaintiff's group of companies' fixed assets listing, showing this particular unipole listed as item 52 and with a book value of RM154,000 as at 31 May 1995. the unipole collapsed on 16 May 1995 and the document showed its cost as RM220,000. The witness placed a depreciation value for the plaintiff's assets at 10% each year. The plaintiff then took off RM66,000 for three years and arrived at a book value of RM154,000. This witness was strenuously challenged. She denied a suggestion that the book value of the unipole may not necessarily be the actual value of the unipole because in the advertising industry the billboard is deemed to have a life span of ten years and as such it would result in an agreed 10% depreciation annually and this is accepted in the advertising industry. The defendants led no evidence in rebuttal. I therefore see no reason to reject the witness' evidence on the book value of the unipole and therefore make an award of RM154,000 under this head.

Cost of vinyl

This sum was claimed as the cost of the vinyl, based on the invoice as amounting to RM45,676.66. Since there was no cross-examination on this sum I allow this claim.

A Loss of revenue from the rental from 16 May 1995 to 14 August 1997

The plaintiff made a claim for RM393,000 under this head. The plaintiff had indeed signed a contract with UMW Toyota Motor Sdn Bhd ('Toyota') to advertise their products for five years from 15 August 1992 to 14 August 1997 and the rental charges agreed to was RM175,000pa. There is evidence B that Toyota had informed the plaintiff that it would stop paying the rental with effect from the date of the collapse of the unipole which was from 16 May 1995 and that it would resume paying the rental as soon as the plaintiff had erected a new unipole at the same site. In fact the advance payment made by Toyota up to 14 August 1995 was refunded by way of a credit note which has been exhibited. There is also evidence in the CABD C that the plaintiff's application to DBKL for the erection of a new unipole at or near the site of the collapsed unipole was rejected by the DBKL. I therefore accept the plaintiff's submission for a claim of RM393,000 which is made up as follows:

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		AMOUNT (RM)
(a)	For the period 16 May 1995 to 14 August 1995 ie 3/12 x RM175,000	43,000
(b)	From 15 August 1995 to 14 August 1996	175,000
E (c)	From 15 August 1996 to 14 August 1997	175,000
		393,000

F Since evidence was led in respect of Qua's report I allow this claim only.

The total award of damages is therefore as follows:

		AMOUNT (RM)
G (a)	Cost of dismantling and removing the unipole after its collapse	62,250.00
(b)	Book value of the unipole as at 31 May 1995	154,000.00
H (c)	Cost of the vinyl (double sided)	45,676.66
(d)	Loss of revenue from the rental from 16 May 1995 to 14 August 1997	393,000.00
(e)	Cost of Hong's reports	(not allowed)
I (f)	Cost of Qua's reports	10,500.00
		665,426.66

I also award interest on the total sum at 4%pa from date of collapse of the unipole, that is, 16 May 1995 to date of judgment and costs.

Plaintiff's claim against the first defendant allowed.

Reported by Benjamin Yong